

United States District Court
Southern District of Texas
Corpus Christi Division

pg's 1-4

James Schorsch, JR.,
Plaintiff,

v.

Civil Action No. 23-CV-240

United States Courts
Southern District of Texas
FILED

Patty Anderson, et al,
Defendants,

NOV 1 2023

Nathan Ochsner, Clerk of Court

Objection to Initial Filing Fee and
Objection to Full Filing Fee

Plaintiff is not objecting to proceeding as in-
forma pauperis, but is entitled to proceed
without prepaying initial filing fees and
balance of Full Filing Fee.

The (PLRA)-Prison Litigation Reform Act- 42
U.S.C. § 1997e does not apply to plaintiff be-
cause in order to be required to pay the in-
itial Filing Fee < plaintiff > would had to
have [three-strikes].

The (PLRA)-"Three-Strikes"-Rule is (only)
applied if three or more civil actions by the
offender have been dismissed for being Frivo-
lous, malicious, or failing to state a claim

2
upon which relief may be granted. The plaintiff has not had three-strikes or three or more civil actions dismissed.

[Congress enacted the reforms in the mid-1990's and one of those reforms was the three-strikes rule of the Prison Litigation Reform Act (PLRA). That rule prevents a prisoner from suing or taking an appeal in forma pauperis - that is, without first paying the Filing Fee - if there is three or more civil actions or appeals filed by the prisoner have previously been "dismissed on the grounds that [they were] Frivolous, malicious, or Failed to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." [28 U.S.C. § 1915(g)]].

8.

Neither the (PLRA) - 42 U.S.C. § 1997e or the (IFP) - 28 U.S.C. § 1915 require plaintiff to pay the balance of the Full Filing Fee of \$ 350.00 because plaintiff filed his 6-month trust fund account or an institutional equivalent to an affidavit and filed an Affidavit of Poverty, with the United States district court, stating that the < plaintiff > does not have any

assets and means to pay. In Fact, plaintiff is eligible under 28 U.S.C. § 1915(a)(1) to proceed without prepayment of Fees or security thereof because on average plaintiff is not receiving any monthly deposits. And plaintiff's six-month stayed at \$80.00 to be employed and utilized for stationery supplies, i.e., paper, pens, and stamps and envelopes for this current litigation.

[Under the statute, 28 U.S.C. § 1915(b)(4), prepayment of any part of the Filing Fee is excused (only) if the prisoner has "no assets and no means" by which to pay the costs and Fees.]

[Prepayment is excused if prisoner has no assets. See; *Hatchett v. Nettles*, 201 F. 3d 651, 652-654 (5th Cir. 2000), (dismissal of prisoner's in forma pauperis action for failure to pay the initial Filing Fee was abuse of discretion when prisoner lacked funds in prison account to pay fee.)].

c.

De Novo Review

" If a party files timely objections to the magistrate's judge report, de novo review of proposed findings

4

and recommendations is required." De Novo Review: See; Gee V. Estes, 829 F.2d 1005 (10th Cir. 1987). (de novo review is required by [28 U.S.C. § 636(b)(1) and U.S. Const. Art. III].)

Timely objections were made because of the prison mail-room holding plaintiff's (D.E. 7) For over Fourteen-days. See: plaintiff's exhibits 1 and 2 of mail-room log-in and of Step 1 grievance # 2024019086.

["The Clerk shall send a copy of this Report and Recommendation to Plaintiff, who has Fourteen (14) days after receipt thereof to File written objections pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure."]

Pursuant to 28 U.S.C. § 1746, I
< Schorsch, James > declare under
penalty of perjury that the Foregoing
is true and correct.

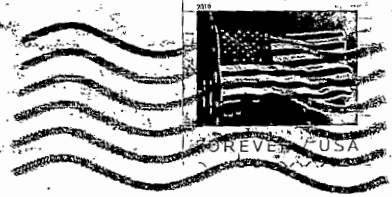
Signed this 30th day of October, 2023

James J. Schorsch Jr.
James J. Schorsch Jr.

1551453
McConnell Staff
3001 S. Emily Dr.
2

Schorsch, James
3B-2 Bottom # 1551453
McConnell Unit
801 S. Emily Drive
Beerville, TX. 78102

SAN ANTONIO TX 780
RIO GRANDE DISTRICT
30 OCT 2023 PM 3 L



United States Courts
Southern District of Texas
FILED

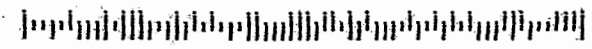
NOV 1 2023

Nathan Ochsner, Clerk of Court

Legal

United States District Court
c/o Clerks Office Room 208
1133 North Shoreline
Corpus Christi, Texas
78401

78401-200399



Civil Action Number 2:23-cv-240